

Message Text

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PAGE 01 STATE 016183
ORIGIN AGRE-00

INFO OCT-01 AF-10 ARA-14 EA-12 EUR-12 NEA-10 IO-14
ISO-00 CEA-01 CIAE-00 COME-00 DODE-00 EB-08
FRB-01 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00
NSC-05 PA-02 CTME-00 AID-05 SS-15 STR-06 ITC-01
TRSE-00 USIA-15 PRS-01 SP-02 SOE-02 OMB-01 DOE-11
SIG-02 MMO-04 /176 R

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USDA/FAS/ITP:GWHITE
COMMERCE:SMARCUSS
COMMERCE:CHETTINGER
STR:TREGAN
EB/ITP/TA-
PATTERSON

-----098271 211012Z /21

R 201811Z JAN 78
FM SECSTATE WASHDC
TO ALL OECD CAPITALS
AMEMBASSY ABIDJAN
AMEMBASSY BANGKOK
AMEMBASSY BELGRADE
AMEMBASSY BOGOTA
AMCONSUL BOMBAY
AMEMBASSY BRASILIA
AMCONSUL BREMEN
AMEMBASSY BUCHAREST
AMEMBASSY BUENOS AIRES
AMEMBASSY CAIRO
AMEMBASSY CARACAS
AMEMBASSY DACCA
AMEMBASSY DAMASCUS
USMISSION GENEVA
AMEMBASSY GUATEMALA
AMCONSUL HAMBURG
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 016183

AMCONSUL HONG KONG
AMEMBASSY ISLAMABAD
AMEMBASSY JAKARTA
AMEMBASSY KINSHASA
AMEMBASSY KUALA LUMPUR
AMEMBASSY LAGOS
AMEMBASSY LIMA

AMEMBASSY MANAGUA
AMEMBASSY MANILA
AMEMBASSY MEXICO
AMCONSUL MILAN
AMEMBASSY MONTEVIDEO
AMEMBASSY MOSCOW
AMEMBASSY NAIROBI
AMEMBASSY NEW DELHI
USLO PEKING
AMEMBASSY PORT OF SPAIN
AMEMBASSY PRETORIA
AMEMBASSY QUITO
AMEMBASSY RABAT
AMCONSUL RIO DE JANEIRO
AMEMBASSY SAN JOSE
AMEMBASSY SAN SALVADOR
AMEMBASSY SANTIAGO
AMEMBASSY SANTO DOMINGO
AMCONSUL SAO PAULO
AMEMBASSY SEOUL
AMEMBASSY TAIPEI
AMEMBASSY TEHRAN
AMEMBASSY TEL AVIV
AMEMBASSY TOKYO
AMEMBASSY WARSAW
AMEMBASSY WELLINGTON
UNCLASSIFIED

UNCLASSIFIED

PAGE 03 STATE 016183

UNCLAS STATE 016183

EC, MTN, FOR AGATTSOECD

E.O. 11652: N/A

TAGS: EAGR, ETRD

SUBJECT: EXPORT ADMINISTRATION ACT

1. ONE OF THE 1977 AMENDMENTS TO THE EXPOR; ADMINISTRATION ACT WILL PERMIT FOREIGN BUYERS OF U.S. AGRICULTURAL COMMODITIES TO RECEIVE EXEMPTIONS AUTHORIZING THEM TO STORE THE COMMODITIES IN THE US FREE FROM ANY QUANTITATIVE LIMITATIONS ON EXPORTS THAT MIGHT SUBSEQUENTLY BE IMPOSED FOR REASONS OF SHORT SUPPLY. COMMERCE DEPARTMENT, WHICH ADMINISTERS THE ACT, SOON WILL PUBLISH PROPOSED REGULATIONS TO IMPLEMENT THIS AMENDMENT, AFTER WHICH THERE WILL BE A BRIEF PERIOD FOR PUBLIC COMMENT.

2. IT IS IMPORTANT THAT, TO THE LARGEST EXTENT POSSIBLE,

THE FINAL REGULATIONS TAKE INTO ACCOUNT THE CONCERNS OF ALL INTERESTED PARTIES. AMONG OTHER USES, THIS PROGRAM COULD HELP ENHANCE WORLD AGRICULTURAL RESERVES.

3. TRANSMITTED BELOW ARE IMPORTANT FEATURES OF THE IMPLEMENTING REGULATIONS. FULL TEXT OF REGULATIONS WILL BE AIR-POUCHED TO ALL ADDRESSEES UPON PUBLICATION. AGRICULTURAL ATTACHES OR OFFICERS ARE ASKED TO REPORT ANY COMMENTS THEY HAVE ON PROPOSED REGULATIONS AND TO TRANSMIT THE SUMMARIES

OF THE REGULATIONS TO APPROPRIATE GOVERNMENT OFFICIALS IN THOSE COUNTRIES WHERE THE ATTACHE FEELS THE HOST GOVERNMENT MIGHT HAVE AN INTEREST IN THE PROGRAM.

UNCLASSIFIED

UNCLASSIFIED

PAGE 04 STATE 016183

4. IN THE FOLLOW-UP, LOW-KEY DISCUSSIONS WITH THESE OFFICIALS, ATTACHES SHOULD SOLICIT COMMENTS ON THE PROPOSED REGULATIONS INCLUDING, WHERE POSSIBLE, ANSWERS TO THE FOLLOWING QUESTIONS:

-- DOES THE HOST GOVERNMENT EXPRESS ANY INTEREST IN THIS PROGRAM? IF SO, WHAT MIGHT ITS NEEDS BE, IN TERMS OF COMMODITIES AND VOLUME?

-- WOULD PURCHASES BE MADE BY A STATE TRADING AGENCY OR BY PRIVATE TRADERS ACTING AS AGENTS FOR THE GOVERNMENT?

-- DO POTENTIAL BUYERS NOTICE ANY REQUIREMENTS IN THE REGULATIONS THAT ARE SO DIFFICULT TO MEET AS TO KEEP THEM FROM SEEKING TO UTILIZE THE PROGRAM?

5. SUMMARY OF PROPOSED REGULATIONS FOLLOWS. THE 1977 AMENDMENTS AUTHORIZE THE SECRETARY OF COMMERCE TO ISSUE THE EXEMPTIONS DESCRIBED ABOVE. FIRST, HOWEVER, BOTH COMMERCE AND AGRICULTURE MUST DETERMINE THAT THE REQUEST MEETS THE FOLLOWING FOUR CRITERIA: (1) THE COMMODITIES WILL EVENTUALLY BE EXPORTED; (2) NEITHER SALE NOR EXPORT WILL RESULT IN AN EXCESSIVE DRAIN OF SCARCE MATERIALS AND HAVE A SERIOUS DOMESTIC INFLATIONARY IMPACT; (3) STORAGE OF SUCH COMMODITIES WILL NOT UNDULY LIMIT SPACE AVAILABLE FOR STORAGE OF DOMESTICALLY OWNED COMMODITIES; AND (4) THE PURPOSE OF THE STORAGE IS TO ESTABLISH A RESERVE FOR LATER USE, NOT INCLUDING RESALE TO OR USE BY ANOTHER COUNTRY.

6. IT CAN BE SEEN THAT A NUMBER OF SUBJECTIVE JUDGMENTS HAVE TO BE MADE IN THIS PROCESS, AND THE PROPOSED REGULATIONS SEEK TO ASSIST THIS DECISION-MAKING PROCESS BY

UNCLASSIFIED

UNCLASSIFIED

PAGE 05 STATE 016183

REQUIRING A NUMBER OF RELEVANT DOCUMENTS AND CERTIFICATIONS ACCORDINGLY, A PRIVATE OR GOVERNMENTAL FOREIGN PURCHASER MAY REQUEST AN EXEMPTION FOR COMMODITIES IN BEING FOR WHICH TITLE HAS PASSED OR FOR WHICH THERE IS A BINDING EXPORT SALES CONTRACT. THE EXEMPTION WILL ENABLE THE PURCHASER TO STORE THE COMMODITIES IN A PARTICULAR STORAGE FACILITY IN THE US, EITHER ON AN IDENTITY PRESERVED OR COMMINGLED BASIS. APPLICATION WILL BE BY LETTER TO COMMERCE, IN WHICH THE APPLICANT: (1) DESCRIBES THE COMMODITIES BY KIND, GRADE AND QUANTITY; (2) IDENTIFIES THE

STORAGE FACILITY AND WHETHER STORAGE WILL BE IDENTITY PRESERVED OR COMMINGLED; (3) STATES PROPOSED LENGTH OF TIME COMMODITIES WILL BE STORED; (4) IDENTIFIES FOREIGN PURCHASER AND FOREIGN COUNTRY IN WHICH THEY WILL BE USED; (5) LISTS OTHER RELEVANT DETAILS; AND (6) CERTIFIES THAT THE COMMODITIES HAVE BEEN PURCHASED FOR RESERVE PURPOSES AND THAT THEY WILL BE EXPORTED DURING THE TIME PERIOD REQUESTED OR, IN THE ABSENCE OF EXPORT CONTROLS, WITHIN 60 DAYS THEREAFTER. THE APPLICANT MUST ALSO NOTE HIS UNDERSTANDING THAT FAILURE TO EXPORT UNDER THE TERMS OF THE EXEMPTION MAY RESULT IN COMPLIANCE ACTION UNDER EXPORT ADMINISTRATION REGULATIONS.

7. THE APPLICATION MUST BE ACCOMPANIED BY: (1) COPIES OF THE CONTRACT OF SALE TO THE FOREIGN BUYER; (2) A STATEMENT FROM AN APPROPRIATE GOVERNMENT REPRESENTATIVE FROM THE EVENTUAL CONSUMING COUNTRY THAT, AMONG OTHER THINGS, THE COMMODITIES ARE PART OF THAT COUNTRY'S RESERVE AND THAT NECESSARY IMPORT AUTHORIZATIONS WILL BE ISSUED; AND (3) AN AFFIDAVIT FROM THE OPERATOR OF THE STORAGE FACILITY REGARDING THE EFFECT THAT SUCH STORAGE WILL HAVE ON SPACE AVAILABLE FOR THE FACILITY'S TRADITIONAL CUSTOMERS.

8. COMMERCE IS PREPARED TO GIVE PRELIMINARY ADVICE AS TO THE LIKELIHOOD THAT A PARTICULAR APPLICATION WILL BE

UNCLASSIFIED

UNCLASSIFIED

PAGE 06 STATE 016183

APPROVED. HOWEVER, SUCH ADVICE WILL NOT BE BINDING.

9. NO APPLICATION WILL BE APPROVED WITHOUT THE CONCURRENCE OF THE DEPARTMENT OF AGRICULTURE.

10. ONCE THE APPLICATION IS APPROVED, THE OPERATOR OF THE STORAGE FACILITY WILL BE REQUIRED TO AFFIX A LEGEND

TO THE ORIGINAL WAREHOUSE RECEIPT TO THE EFFECT THAT THE COMMODITIES CAN BE REMOVED FROM STORAGE ONLY FOR EXPORT TO THE SPECIFIED COUNTRY.

11. APPROVALS WILL BE EFFECTIVE ONLY FOR SPECIFIED TIME PERIODS, AND EXEMPTIONS FROM EXPORT CONTROLS WILL APPLY ONLY DURING THOSE TIME PERIODS. THE COMMODITIES MUST BE EXPORTED DURING THE SPECIFIED PERIOD OR WITHIN A 60-DAY PERIOD THEREAFTER. THE PURCHASER MAY REQUEST AN EXTENSION OF THE ORIGINAL PERIOD OF EXEMPTION. THIS REQUEST MUST BE MADE AT LEAST 30 DAYS BEFORE EXPIRATION OF THAT PERIOD, MUST BE IN WRITING, AND MUST DESCRIBE THE REASON WHY THE EXTENSION IS REQUESTED.

12. UPON EXPORT OF EXEMPTED COMMODITIES, THE EXPORTING FIRM SHALL SUBMIT PROOF OF EXPORT TO COMMERCE, INCLUDING A COPY OF THE ON-BOARD BILL OF LADING.

13. DURING PERIODS WHEN QUANTITATIVE SHORT SUPPLY CONTROLS ARE IN EFFECT, THE EXPORTER MUST FIRST RECEIVE AN EXPORT LICENSE FROM COMMERCE -- WHICH WILL BE GRANTED TO ALL HOLDERS OF VALID EXEMPTIONS UPON APPLICATION. IN ADDITION TO PROOF OF EXPORT, WITHIN 60 DAYS OF SHIPMENT OF EXEMPTED COMMODITIES PURSUANT TO AN EXPORT LICENSE, THE LICENSE HOLDER MUST SUBMIT A STATEMENT FROM AN APPROPRIATE GOVERNMENT OFFICIAL OF THE CONSUMING COUNTRY THAT THE COMMODITY

UNCLASSIFIED

PAGE 07 STATE 016183

TIES HAVE BEEN IMPORTED INTO THAT COUNTRY. END SUMMARY. CHRISTOPHER

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Message Attributes

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Draft Date: 20 jan 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Litigation History:
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Review Exemptions: n/a
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Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3737731
Secure: OPEN
Status: NATIVE
Subject: EXPORT ADMINISTRATION ACT
TAGS: EAGR, ETRD
To: OECD POSTS ABIDJAN MULTIPLE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/f511c7e1-c288-dd11-92da-001cc4696bcc
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